FILED
APR 15 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. **THOMAS V. SWIFT (D1),** **KEVIN D. KENNEDY (D2),** **ROBERT ROCCO (D3),** **STEVEN ZUFALL (D4),** **RUDY TIJERINA (D5),** **JESSE SANDOVAL (D6),** **KYLE KIMBREL (D7),** **JORGE MORALES (D8),** **JOSE RODRIGUEZ-PARRA (D9),** **RANDY KENNEDY (D10),** **GLENN SWIFT (D11),** **GREGORY SWIFT (D12),** **BRANDON GONZALEZ (D13),** Defendants.	Magistrate Docket No. COMPLAINT FOR VIOLATION OF: Title 21, U.S.C., Secs. 846 and 841(a)(1); Conspiracy to manufacture marijuana. (Felony) '08 MJ 1161

The undersigned complainant, being duly sworn, states

Beginning at a date unknown and continuing up to and including April 14, 2008, within the Southern District of California, defendants THOMAS V. SWIFT, KEVIN D. KENNEDY, ROBERT ROCCO, STEVEN ZUFALL, RUDY TIJERINA, JESSE SANDOVAL, KYLE KIMBREL, JORGE MORALES, JOSE RODRIGUEZ, RANDY KENNEDY, GLENN SWIFT, GREGORY SWIFT, and BRANDON GONZALEZ did knowingly and intentionally manufacture a controlled substance, to wit, 1000 and more marijuana plants, a Schedule I Controlled Substance; and did conspire to manufacture a controlled substance, to wit, 1000 and more marijuana plants, a Schedule I Controlled Substance, all in violation of Title 21, United States Code, Sections 846 and 841(a)(1).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

ERIC BALL
SPECIAL AGENT, DEA

SWORN TO AND SUBSCRIBED IN MY PRESENCE, THIS 15TH DAY OF APRIL, 2008.

THE HONORABLE BARBARA L. MAJOR
UNITED STATES MAGISTRATE JUDGE

GM

STATEMENT OF FACTS

I, Special Agent Eric Ball, Drug Enforcement Administration (DEA) declare under penalty perjury, the following is true and correct:

In March 2007, in the course of their duties, DEA agents learned that Thomas Swift ("Swift") (D1) and Kevin Kennedy ("Kennedy") (D2), and others known and unknown, were possibly involved in a clandestine indoor marijuana cultivation operation. Subsequent investigation identified a possible indoor marijuana grow operation at the residences of:

(1) 818 Ora Avo Drive, Vista, California (hereinafter **818 Ora Avo**);

(2) 9411 Vista Aleta, Valley Center, California (hereinafter **9411 Vista Aleta**);

(3) 16201 Swartz Canyon Road, Ramona, California (hereinafter **16201 Swartz Canyon**);

(4) 2585 Rainbow Valley Blvd, Fallbrook, California (hereinafter **2585 Rainbow Valley**); and,

(5) 31835 Oak Glen Road, Valley Center, California (hereinafter **31835 Oak Glen**).

(Collectively "Grow Locations").

Ownership of Grow Houses

Real estate records indicated that Swift was the owner of **16201 Swartz Canyon**, from March 26, 2004, until January 30, 2006, after which Swift quitclaimed this residence to Thomas V. Swift, as trustee of the Thomas V. Swift Trust. Real estate records indicated that Kennedy was the owner of **818 Ora Avo**, from December 8, 2004, until June 10, 2005, after which Kennedy quitclaimed this property to Swift. Swift then quitclaimed this residence to Thomas V. Swift, as trustee of the Thomas V. Swift Trust as of January 30, 2006. Furthermore, these records indicated that Swift was the owner of **31835 Oak Glen**, from November 10, 1987, until June 25, 2004, after which Swift quitclaimed this residence to Thomas V. Swift, as trustee of the Thomas V. Swift Trust.

Real estate records indicate that Kennedy is the current owner of **9411 Vista Aleta** from October 18, 2005 until August 16, 2007, at which point he quitclaimed this property to EMHV Holdings, LLC. Real estate records further indicate that Kennedy's father, Thomas J. Kennedy, was the owner of **2585 Rainbow Valley** from October 15, 1997, until August 16, 2007, at which point he quitclaimed this property to EMHV Holdings, LLC.

Beginning of Investigation

In February 2007, your affiant received information from a concerned citizen about a residence located1509 San Pablo Drive, San Marcos, California. The concerned citizen reported that he/she and other surrounding neighbors were concerned that individuals at the residence were growing marijuana at the residence. According the concerned citizen, in or about August 2006, the owner of the 1509 San Pablo residence moved out and began renting the property. When this occurred, the concerned citizen saw several men arrive and enter the residence with carts of power tools. Since the time the 1509 San Pablo residence was rented, the concerned citizen has observed several different people arrive at the residence, at different times of the day and night, but has noticed that these people generally only stay between 20 minutes to an hour before leaving again. The concerned citizen further reported that he/she did not believe anyone actually resided at that residence.

The concerned citizen also reported having observed a black pick-up truck at the San Pablo residence. Your affiant's check of California Department of Motor Vehicles (DMV) records on this license plate revealed the registered owners to be Steven Zufall and Taylor Perrotta at a different address than 1509 San Pablo. Upon obtaining this information, your affiant obtained DMV Drivers' License photographs of both Zufall and Perrotta. Your affiant showed the photographs to the concerned citizen and asked if the citizen had ever seen the individual in the photograph. The citizen identified the photograph of Zufall as the driver of the black pick-up truck he/she had seen, and noted that Zufall had introduced himself as "Steve."

On February 28, 2007, your affiant conducted surveillance in the area of 1509 San Pablo Drive. Your affaint's vantage point allowed a view of the rear of the residence without being on the property. From this vantage point, your affiant observed a panel missing from the shutter covering a window. Through the opening, your affiant observed a black plastic sheet, hanging from the interior, covering the glass window. The black plastic sheet hanging in front of the glass appeared to be "Panda film," or plastic sheeting akin to Panda film. Generally, "Panda Film" is used to cover exterior windows. Marijuana growers use this product to hang in front of their grow room windows from the inside. The black side of the plastic faces out and gives the appearance of a dark room, while preventing the intense light from being seen from outside. The white side of the plastic faces inward and works as a reflective surface to more efficiently spread high-powered lighting used in the residence to the plants.

On March 3, 2007, a San Diego Sheriff's Department Detective conducting surveillance at the 1509 San Pablo Drive residence observed Swift's truck and Rocco's truck parked in front of the residence.

On March 7, 2007, a San Diego Sheriff's Department Detective conducting surveillance at 1509 San Pablo Drive residence observed Zufall and Perrotta loading large black tubs, irrigation tubing and several large black trash bags from the residence into the back of Zufall's pick- up truck.

After observing Zufall and Perrotta load the tubs, irrigation tubing and several large black trash bags into the back of Zufall's pick-up truck, the detective followed the truck, driven by Zufall, from the residence. Traveling north on Buena Creek in Vista, California, just past the intersection of Monte Vista Drive, Zufall abruptly pulled over to the side of the road. Because of Zufall's abrupt maneuver, the detective had to continue on to minimize the risk that Zufall detected the surveillance. As a result surveillance on Zufall was lost at that point. It appears that activities at 1509 San Pablo ceased soon after this incident, based on surveillance by agents.

97

Surveillance

Beginning in March 2007, DEA agents engaged in surveillance of Thomas Swift, Kevin Kennedy, Robert Rocco, Steven Zufall, Robert Rocc, and others at or around the residences of **818 Ora Avo, 9411 Vista Aleta, 16201 Swartz Canyon, 2585 Rainbow Valley** and **31835 Oak Glen**. DEA agents also engaged in the monitoring of Swift's and Kennedy's vehicles at these houses, as well as monitored Swift's and Kennedy's driving between their own living residences to these suspected grow houses. All surveillance occurred between February 2007 and March 2008.

1. Swift Surveillance

On March 7, 2008, agents monitored Swift's truck (Cal. License Plate No. 6V23513) from 8:30 a.m. to 10:30 a.m. Swift's truck left his residence at 413 Silver Spur at 8:30 a.m. and proceeded to the Grow Location at **818 Ora Avo**. Swift's truck stayed at **818 Ora Avo** for twenty-five minutes and proceeded to the Grow Location at **9411 Vista Aleta**. Swift's truck stayed at **9411 Vista Aleta** for thirty-five minutes and then proceeded back to his residence at 413 Silver Spur.

On March 10, 2008, agents monitored Swift's truck from 9:00 a.m. to 2:25 p.m. Swift's truck left his residence at 413 Silver Spur at 9:00 am and proceeded to the Grow Location at **2585 Rainbow Valley**. Swift's truck stayed at **2585 Rainbow Valley** for an hour and then proceeded to the Grow Location at **9411 Vista Aleta**. Swift's truck stayed at **9411 Vista Aleta** for ten minutes, and then proceeded to the Grow Location at **16201 Swartz Canyon**. Swift's truck stayed at **16201 Swartz Canyon Road** for ten minutes and then proceeded back to his residence at his residence at 413 Silver Spur.

On March 13, 2008,your affiant and agents monitored Swift's truck from 7:10a.m. to 9:30 p.m. Swift's truck left his residence at 413 Silver Spur at 7:10 a.m. and proceeded to the Grow Location **at 2585 Rainbow Valley**. Swift stayed at **2585 Rainbow Valley** for almost two hours and then proceeded to the Grow Location at **9411 Vista Aleta**. Your affiant saw Swift leave **2585 Rainbow Valley** and later observed Swift at **9411 Vista Aleta**. Swift's truck stayed at **9411 Vista Aleta** for thrity-five minutes, and then proceeded to the Grow Location at **818 Ora Avo**. **Swift**'s truck stayed at **818 Ora Avo** for twenty minutes and then proceeded back to his residence at 413 Silver Spur. Swift's truck stayed at 413 Silver Spur for fifty minutes, and then proceeded to the Grow Location at **31835 Oak Glen**. Swift's truck stayed at **31835 Oak Glen** for two hours and forty minutes, and then proceeded back to his residence at 413 Silver Spur.

2. Kevin Kennedy Surveillance

On March 10, 2008, agents monitored Kennedy's truck (Cal. License Plate No. 2Z51447) from 11:55 a.m. to 4:00 p.m. Kennedy's truck left his residence at 1221 Adobe Terrace at 11:55 a.m. and proceeded to the Grow Location at **9411 Vista Aleta**. Kennedy's truck stayed at **9411 Vista Aleta** for fifty-five minutes and then proceeded back to his residence at 1221 Adobe Terrace.

On March 12, 2008, your affiant and agents monitored Kennedy's truck from 7:40 p.m. until March 13, 2008 at 6:00 p.m. Kennedy's truck left his residence at 1221 Adobe Terrace at 7:40 p.m.

and proceeded to the Grow Location at **9411 Vista Aleta**. Kennedy's truck stayed at **9411 Vista Aleta** for one hour and fifty minutes and then proceeded to the Grow Location at **2585 Rainbow Valley**. Kennedy's truck stayed at **2585 Rainbow Valley** for fifty minutes and then proceeded back to the Grow Location at **9411 Vista Aleta**. **Kennedy**'s truck stayed at **9411 Vista Aleta** for one hour and twenty minutes and then proceeded to his residence at 1221 Adobe Terrace, arriving at 1:20 a.m. At 8:00 a.m., Kennedy's truck left 1221 Adobe Terrace and proceeded to the Grow Location at **9411 Vista Aleta**. Kennedy's truck stayed at **9411 Vista Aleta** for one hour and fifty minutes; your affiant then subsequently saw Kennedy at the Grow Location at **2585 Rainbow Valley**. Kennedy's truck stayed at **2585 Rainbow Valley** for fifty minutes and then proceeded to the Grow Location at **9411 Vista Aleta**. Kennedy's truck stayed at **9411 Vista Aleta** for one hour and twenty minutes and then proceeded back to his residence at 1221 Adobe Terrace.

3. Other Surveillance

Your affiant and other agents also observed other targets of the investigation or their vehicles at the Grow Locations during the March 2007 to March 2008 surveillance period. During this time period: other surveillance agents saw **Steven Zufall** or his truck at the Grow Locations at **818 Ora Avo**, **9411 Vista Aleta**, and **16201 Swartz Canyon**; your affiant and other surveillance agents observed **Kyle Kimbrel** and his truck at the Grow Locations at **818 Ora Avo** and **16201 Swartz Canyon**; and other surveillance agents observed **Robert Rocco** and his truck at the Grow Locations at **9411 Vista Aleta** and **16201 Swartz Canyon**.

Specifically, surveillance agents observed Zufall's truck at **818 Ora Avo** on March 14, 2007 and September 24, 2007. On March 14, 2007, surveillance agents observed the bed of Zufall's pick-up truck loaded with lumber at **818 Ora Avo Drive**. When your affiant responded to the residence a short time after the truck arrived, your affiant observed the truck and that the lumber had been removed from the truck bed. Surveillance agents also observed Steven Zufall or his truck at **9411 Vista Aleta** on April 3, 2007, January 8, 2008 and February 20, 2008.

Surveillance agents also observed Robert Rocco or his truck at **9411 Vista Aleta** on April 2, 2007, April 3, 2007, April 16, 2007, August 17, 2007 and January 8, 2008. On April 2, 2007, surveillance agents observed Kennedy and Rocco unload items contained within black trash bags from the bed of Rocco's truck and take them into **9411 Vista Aleta**. Surveillance agents further observed Rocco's truck at **16201 Swartz Canyon** on August 27, 2007.

Electrical Use at the Grow Houses

Through record checks and a submeter installation by San Diego Gas & Electric (SDG&E), your affiant determined that the Grow Location at **16201 Swartz Canyon** was stealing approximately 539 Kilowatt hours of electricity per day. From August 13, 2007 to March 11, 2008, the sub-meter installed by SDG&E reported approximately 116,042 Kilowatt hours stolen at **16201 Swartz Canyon**.

A submeter installed by SDG&E at the Grow Location at **818 Ora Avo** demonstrated that this location was stealing approximately 463 Kilowatt hours of electricity per day. From August 2, 2007 to March 27, 2008, the sub-meter installed by SDG&E reported approximately 116,042 Kilowatt hours stolen at **818 Ora Avo**.

FLIR Searches

On March 5, 2008, DEA Special Agent Eric Ball applied for an received a FLIR ("Forward Looking Infrared") search warrant at the grow houses. On March 7, 2008, the San Diego Police Department's aviation unit executed that FLIR search warrant on the five suspected grow locations listed above. At four of the five houses (all but **31835 Oak Glen)**, the San Diego Police Department thermographer concluded that the heat emissions coming from the houses were consistent with an indoor marijuana grow location. The San Diego Police Department thermographer concluded that the heat emissions for **31835 Oak Glen** were inconclusive for an indoor marijuana growing operation.

Execution of Search Warrants

On April 14, 2008, agents executed federal search warrants at all five suspected grow locations, including **818 Ora Avo, 9411 Vista Aleta, 31835 Oak Glen, 16201 Swartz Canyon**, and **2585 Rainbow Valley**.

At **818 Ora Avo**, agents located and arrested Rudy Tijerina, Jesse Sandoval, Kyle Kimbrel. Kimbrel possessed the driveway gate door opener to the residence. Tijerina and Sandoval indicated that they lived at this residence. Within the residence, agents located a sophisticated indoor marijuana growing operation. The growing areas contained approximately 2266 marijuana plants and hydroponic growing equipment.

At **9411 Vista Aleta**, agents located and arrested Randy Kennedy. Agents searched the residence and located a sophisticated indoor marijuana growing operation in the residence. The residence contained approximately 1568 marijuana plants and hydroponic growing equipment.

At **16201 Swartz Canyon**, agents located and arrested Jorge Morales. Morales indicated that he was presently living at this residence. Agents searched the residence and located a sophisticated indoor marijuana growing operation in the residence. The residence contained approximately 2022 marijuana plants and hydroponic growing equipment.

At **2585 Rainbow Valley**, agents located and arrested Jose Rodriguez. Rodriguez indicated that he had been at this residence for two weeks. Agents searched the residence and located a sophisticated indoor marijuana growing operation in the residence. The residence contained approximately 991 marijuana plants and hydroponic growing equipment.

At **31835 Oak Glen**, agents located and arrested Glenn Swift, Gregory Swift, and Brandon Gonzalez. Both Gregory Swift and Glenn Swift, and Brandon Gonzalez indicated that they lived at the residence. Agents searched the residence and located processed marijuana plants, digital scales, ziploc baggies, bags of marijuana, guns, and approximately $20,000 in cash. Additionally, according to the agents who executed the search warrant, the entire residence smelled of marijuana.

Agents also executed search warrants at 1392 Enchante Way, Oceanside, California (Zufall's residence) and 792 Marsopa, Vista, California (Rocco's residence). At Zufall's residence, agents found a bag of marijuana and a tupperware box containing marijuana. At Rocco's residence, agents discovered a receipt of $1400 for hydroponic growing supplies from San Diego Hydroponics, as well as a bag of marijuana, and a photography of Swift and Rocco together.

In sum, during the execution of these search warrants, agents discovered a total of 6,848 marijuana plants, hydroponic growing equipment, numerous bags of marijuana, guns, and sums of cash in the five grow locations listed above.

Executed on April 15th (date) at 1:24pm (time)

ERIC BALL
Special Agent, Drug Enforcement Administration

On the basis of the facts presented in this probable cause statement consisting of 6 pages, I find probable cause to believe that the defendants named in this probable cause statement committed the offense beginning at a date unknown and up to and including April 14, 2008, in violation of Title 21, United States Code, Sections 846 and 841(a)(1).

THE HONORABLE BARBARA L. MAJOR
United States Magistrate Judge

Date/Time